

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DONTE PICOOU, on behalf of himself and
others similarly situated,

Plaintiff,

v.

TRACY LOGISTICS LLC, an entity of
unknown form; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO. 2:24-cv-00526-MCE-JDP

**ORDER DENYING DEFENDANT'S
MOTION TO DISMISS AND/OR STRIKE
PLAINTIFF'S SECOND AMENDED CLASS
ACTION COMPLAINT PURSUANT TO
FED. R. CIV. P. 12(b)(6) AND/OR 12(f)**

Date: June 13, 2024

Time: 10:00 a.m.

Crtrm.: 7, 14th Floor

Judge: Hon. Morrison C. England, Jr.


ORDER

The motion of Defendant TRACY LOGISTICS LLC (“Defendant”) to dismiss and/or strike Plaintiff Donte Picou’s (“Plaintiff”) Second Amended Class Action Complaint (the “SAC”) is DENIED.

Plaintiff filed the Second Amended Complaint without a stipulation between the parties or an order of the Court. In fact, it was filed in violation of the Order issued at ECF No. 15 directing that a “proposed [SAC]” be provided to opposing counsel in furtherance of the parties’ attempts to resolve an existing motion to dismiss the operative First Amended Complaint (“FAC”). Plaintiff instead unilaterally filed the SAC without providing a proposed version to opposing counsel and without permission of the Court in violation of the Court’s prior order and the Federal Rules of Civil Procedure. See Fed. R. Civ. P. 15(a). Accordingly, Plaintiff’s SAC (ECF No. 16) is STRICKEN and the Clerk of Court is directed to update the docket accordingly. Defendant’s Motion to Dismiss (ECF No. 29) is DENIED as moot. Because the motion to dismiss the FAC was denied as moot via minute order prior to the relation of this action to the undersigned, ECF No. 18, Defendant shall re-notice that original Motion before this Court not later than ten (10) days following the date this Order is electronically filed.

IT IS SO ORDERED.

Dated: July 1, 2024


MORRISON C. ENGLAND, JR.
SENIOR UNITED STATES DISTRICT JUDGE